

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SCOTT L. MARTIN AND
MICHELLE L. MARTIN,

Defendants.

4:16-CV-3052

ORDER

This matter is before the Court on the Defendant's Claim for Assets held by the Court ([filing 28](#)), in which the defendants dispute the Chapter 7 Bankruptcy Trustee's Notice of Claim ([filing 26](#)) and claim that they are entitled to the surplus funds resulting from the sale of their property pursuant to the Court's Order of Replevin ([filing 18](#)) and Findings of Fact and Order of April 29, 2016 ([filing 20](#)).

It appears to the Court that the matter initially submitted to it for disposition—the government's complaint for replevin—has been fully resolved. The property in which the United States had a security interest has been sold, and the defendants' indebtedness to the United States has been satisfied. See [filing 23](#). What remains is a dispute between the defendants and the bankruptcy trustee as to whether or not the surplus proceeds of that sale are part of the bankruptcy estate. See [filing 28](#). That question is collateral to the one initially presented to this Court, and appears to be subsumed by issues that are before the bankruptcy court.

Accordingly, the Court finds it appropriate to enter judgment on the government's complaint, because the dispute presented by that complaint has been disposed of. The remaining issue regarding disposition of the surplus funds will be referred to the bankruptcy court for disposition.

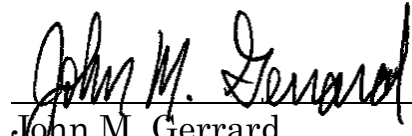
IT IS ORDERED:

1. Pursuant to the Court's Findings of Fact and Order of April 29, 2016 ([filing 20](#)), and this memorandum and order, a separate judgment will be entered.

2. The Clerk of the United States District Court for the District of Nebraska shall close this case.
3. For purposes of determining to whom the surplus proceeds from the sale of the defendants' property should be paid, this case is referred to the United States Bankruptcy Court for the District of Nebraska.
4. The Clerk of the United States District Court for the District of Nebraska shall deliver, or send electronically, the Court file to the Clerk of the Bankruptcy Court for the District of Nebraska.
5. The Clerk of the Court shall retain the \$3,464.15 currently in its possession in its secure custody and control, as provided by law, pending further instruction from the United States Bankruptcy Court for the District of Nebraska.

Dated this 20th day of December, 2016.

BY THE COURT:



John M. Gerrard
United States District Judge